

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

THOMAS M. BRADDY, JR.	§	
VS.	§	CIVIL ACTION NO. 1:13cv33
WARDEN FCI-LOW BEAUMONT	§	

ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Thomas M. Braddy, Jr, an inmate formerly confined at the Federal Correctional Institution at Beaumont, Texas, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this case. The Magistrate Judge recommends the petition for writ of habeas corpus be dismissed.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the records, pleadings and all available evidence. Petitioner filed objections to the Report and Recommendation. The Court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

The Magistrate Judge recommended this petition be dismissed because as petitioner is challenging the conditions of his confinement rather than the fact or duration of his confinement, his claims could not be pursued in a habeas action. Citing *Braddy v. Fox*, 476 F. App'x 51 (5<sup>th</sup> Cir. 2012), petitioner argues that he is allowed to challenge the conditions of his confinement in a habeas petition. In *Braddy*, the petitioner (who is also the petitioner in the action now before the Court) claimed that the government breached a term in a written plea agreement by housing him in close proximity to his co-defendants. The United States Court of Appeals for the Fifth Circuit remanded the case to the district court to determine whether the plea agreement was breached. In

this case, unlike in *Braddy*, petitioner does not assert that a specific provision in his plea agreement requires the Bureau of Prisons to provide specific conditions of confinement. Instead, petitioner argues that his plea agreement implicitly guarantees him conditions of confinement required by contracts, statutes, regulations, ordinances, and rules governing the Bureau of Prisons. This argument lacks merit. Whether the Bureau of Prisons is providing petitioner with the conditions of confinement to which he is entitled is not a matter for habeas review.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in accordance with the recommendation of the Magistrate Judge.

So **ORDERED** and **SIGNED** this **22** day of **November, 2013**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge